(By) DEPUTY CLERK

UNITED STATES DISTRICT COURT

CENTRAL	District of	ILLINOIS
DD BLAGOJEVICH, Governor of the state of Illinois,		
Plaintiff, V.		SUMMONS IN A CIVIL CASE
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI; Chairman of the Defense Base Closure and Re-Alignment Commission; JAMES BILBRAY; PHILLIP E. COYLE; HAROLD GEHMAN, JR JR.; JAMES HANSEN; JAMES HILL; LLOYI W. NEWTON; SAMUEL K. SKINNER;	CASE	05-3190
and SUE ELLEN TURNER, members of the		
Defense Base Closure and Realignment Commission,		BRAC Commission
Defendants.		JUL 2 5 2005
·		Received
TO: (Name and address of Defendant)		
James H. Bilbray, Member Defense Base Closure and Realignment Commi 2521 South Clark Street, Suite 600 rlington, Virginia 22202	ssion	
YOU ARE HEREBY SUMMONED and requ	uired to serve upor	n PLAINTIFF'S ATTORNEY (name and address)
Terence J. Corrigan Assistant Attorney General State of Illinois 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819		
an answer to the complaint which is herewith served summons upon you, exclusive of the day of service. the relief demanded in the complaint. You must also f of time after service.	If you fail to do s	so, judgment by default will be taken against you fo
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SAO 440 (Rev. 10/93)	Summons in a Civil Action				
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eck one box b	elow to indicate appro	priate method of service			
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IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS SPRINGFIELD DIVISION



JUL 2 1 2005

ROD BLAGOJEVICH, Governor of the State of Illinois, Plaintiff,) JOHN M. WATERS, Clerk) U.S. DISTRICT COURT) CENTRAL DISTRICT OF ILLINOIS
r laman,)
-VS-	No. 05-3190
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W.))))
GEHMAN, JR.; JAMES V. HANSEN;	ý
JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN) }
TURNER, members of the Defense Base Closure and Realignment Commission,	,))

COMPLAINT

Defendants.

Plaintiff, ROD BLAGOJEVICH, Governor of the State of Illinois, by his attorney, Lisa Madigan, Attorney General of the State of Illinois, and for his complaint against defendants, DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission, states as follows:

- 1. Plaintiff, Rod Blagojevich, is the Governor of the State of Illinois.
- 2. Pursuant to the Constitution and laws of the State of Illinois, plaintiff is the Commander in Chief of the military forces of the State of Illinois, except for those persons who are actively in the service of the United States. Illinois Constitution of 1970 art. XII, §4.

- 3. Defendant Donald Rumsfeld is the Secretary of Defense of the United States.
- 4. Pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, Secretary Rumsfeld is authorized to make recommendations for the closure and realignment of federal military bases in the United States to the Defense Base Closure and Realignment Commission.
- 5. Defendant Anthony J. Principi has been named by the President of the United States to be Chairman of the Defense Base Closure and Realignment Commission.
- 6. Defendants James H. Bilbray; Phillip E. Coyle; Harold W. Gehman, Jr.; James V. Hansen; James T. Hill; Lloyd W. Newton; Samuel K. Skinner; and Sue Ellen Turner have been named by the President of the United States to be members of the Defense Base Closure and Realignment Commission.
- 7. Pursuant to Sections 2903 and 2914 of the Defense Base Closure and Realignment Act of 1990 as amended, the Defense Base Closure and Realignment Commission is empowered to consider the recommendations of the Secretary of Defense and make recommendations to the President of the United States for the closure and realignment of military bases.
- 8. Pursuant to Sections 2903 and 2904 of the Defense Base Closure and Realignment Act of 1990 as amended, the Secretary of Defense of the United States shall close the bases recommended for closure by the Commission and realign the bases recommended for realignment, unless the recommendation of the Defense Base Closure and Realignment Commission is rejected by the President of the United States or disapproved by a joint resolution of Congress.
- 9. The Air National Guard base at the Abraham Lincoln Capital Airport is used for the administering and training of the reserve components of the armed forces.

- 10. Defendant Rumsfeld has recommended to the Base Closure and Reassignment Commission that the 183rd Fighter Wing be realigned.
- 11. The 183rd Fighter Wing of the Illinois Air National Guard is presently located at the Abraham Lincoln Capital Airport in Springfield, Illinois.
- 12. A "wing" is defined by Air Force Instruction 38-101 as a level of command with approximately 1,000-5,000 persons which has a distinct mission with a significant scope and is responsible for monitoring the installation or has several squadrons in more than one dependent group. AFI 38-101 §2.2.6.
- 13. The 183rd Fighter Wing is composed of Headquarters Staff, the 183rd Operations Group, the 183rd Maintenance Group, the 183rd Medical Group, and the 183rd Mission Support Group.
 - 14. The 183rd Operations Group includes the 170th Fighter Squadron.
- 15. A "group" is a level of command consisting of approximately 500-2,000 persons usually comprising two or more subordinate units. AFI 38-101 §2.2.7.
- 16. The Groups which make up the 183rd Fighter Wing are composed of various squadrons and flights.
 - 17. A "squadron" is the "basic unit of the Air Force." AFI-38-101 §2.2.8.
- 18. A "numbered/named flight" is the lowest level unit in the Air Force. AFI 38-101 §2.2.9.1.
- 19. The wing, groups, squadrons, and flights at the Abraham Lincoln Capital Airport are "units" as the term is defined by AFI 38-101.
- 20. The proposed realignment would result in the withdrawal or relocation of the fifteen F16 fighter planes currently assigned to the 183rd Fighter Wing and the relocation

or removal of the positions of 185 full time and 452 part time personnel.

- 21. Plaintiff has information and believes that the proposed realignment will result in the withdrawal or relocation of various units of the Illinois Air National Guard, including the 170th Fighter Squadron, the 183rd Operational Support Flight, and large portions of the 183rd Maintenance Group.
- 22. The result of the withdrawal or relocation of these units is that the 183rd Fighter Wing will cease to exist, because the units remaining will be insufficient to meet the definition of a "wing."
- 23. The Illinois National Guard constitutes a portion of the reserve component of the armed forces of the United States.
- 24. Defendant Rumsfeld has recommended that units of the Illinois Air National Guard be relocated or withdrawn.
- 25. Pursuant to 10 U.S.C. §18238, "A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the State."
- 26. Plaintiff has not consented to withdrawal or relocation of units of the Illinois Air National Guard.
- 27. Plaintiff has informed defendants that he did not consent to withdrawal or relocation of Air National Guard units and stated that:

The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

See Exhibits A, B.

- 28. Pursuant to 32 U.S.C. §104(a) each State may fix the locations of the units and headquarters of its National Guard.
- 29. Pursuant to 32 U.S.C. §104(c) "no change in the branch, organization, or allocation of a unit located entirely within a state may be made without the approval of its Governor."
- 30. The units of the 183rd Fighter Wing are presently located entirely within the State of Illinois.
- 31. Federal law prohibits defendant Rumsfeld from taking action to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois.
- 32. Pursuant to 10 U.S.C. §18235(b)(1) the Secretary of Defense may not permit any use or disposition of a facility for a reserve component of the armed forces that would interfere with the facilities' use for administering and training the reserve components of the armed forces.
- 33. The realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld would interfere with the use of the Abraham Lincoln Capital Airport for the training and administering of reserve components of the armed forces and is barred by 10 U.S.C. §18235(b)(1).
- 34. By virtue of defendant Rumsfeld's proposal to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois an actual controversy exists between the parties.
- 35. The members of the Base Closure and Realignment Commission have interests which could be affected by the outcome of this litigation and are made defendants

pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.

- 36. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).
- 37. Venue is proper in the Central District of Illinois by virtue of the fact that the Abraham Lincoln Capital Airport where the 183rd Fighter Wing is based is in the Central District of Illinois and by virtue of the fact that the official residence of the Governor of the State of Illinois is in the Central District of Illinois.

WHEREFORE, plaintiff prays that this honorable Court grant the following relief:

- A. Enter a declaratory judgment declaring the realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld without the consent of the Governor of the State of Illinois is prohibited by federal law; and
- B. Granting such other relief as is warranted in the circumstances.

ROD BLAGOJEVICH, Governor of the State of Illinois,

Plaintiff,

LISA MADIGAN, Attorney General, State of Illinois,

Attorney for Plaintiff,

BY: /s/Terence J. Corrigan

Terence J. Corrigan, #6191237 Assistant Attorney General 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819

Telephone: 217/782-5819 Facsimile: 217/524-5091

E-mail: tcorrigan@atg.state.il.us



Rod R. Blagojevich
JRTC, 100 West Randolph, Suite 16-100
Chicago, Illinois 60601

July 11, 2005

The Honorable Donald H. Rumsfeld Secretary of Defense U.S. Department of Defense The Pentagon Room 3E800 Washington D.C. 20301

Dear Secretary Rumsfeld:

According to the recent BRAC recommendations issued by the Department of Defense, the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois would be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and completely disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by the Department of Defense with regard to the 183rd Fighter Wing.

Chairman Principi recently wrote you expressing his concern about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

DEFENDANT'S EXHIBIT

By this letter I wish to formally notify you that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the above reference statutory citations, the actions proposed by your Department cannot proceed.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm.Proc. Rule II(I)(1)(f)



Rod R. Blagojevich JRTC, 100 WEST RANDOLPH, SUITE 16-100 CHICAGO, ILLINOIS 60601

July 11, 2005

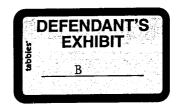
Anthony J. Principi Chairman of the Defense Base Closure and Realignment Commission 2521 South Clark Street Suite 600 Arlington, Virginia 22202

Dear Chairman Principi:

As you are aware, Secretary of Defense Donald Rumsfeld has recommended that the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by Secretary of Defense Rumsfeld with regard to the 183rd Fighter Wing.

In your recent letter to Secretary Rumsfeld, in addition to asking whether we were consulted about this recommendation, you expressed concerned about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these



recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

By this letter, I wish to formally notify the Commission that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the statutory citations referenced above, the actions proposed by Secretary Rumsfeld cannot proceed. I expressed similar sentiments to your fellow commissioners on June 20, 2005, at the BRAC Regional Hearings in St. Louis via both oral and written testimony.

Thank you for your time and consideration.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm. Proc. Rule II(I)(1)(f)

(By) DEPUTY CLERK

UNITED STATES DISTRICT COURT

CENTRAL	District of	ILLINOIS
OD BLAGOJEVICH, Governor of the state of Illinois,		
Plaintiff, V.		SUMMONS IN A CIVIL CASE
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI; Chairman of the Defense Base Closure and ReAlignment Commission; JAMES BILBRAY; PHILLIP E. COYLE; HAROLD GEHMAN, JF JR.; JAMES HANSEN; JAMES HILL; LLOYI W. NEWTON; SAMUEL K. SKINNER;	CASE	05-3190
and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment		BRAC Commission
Commission, Defendants.		JUL 2 5 2005
2 orondamus.		Received
TO: (Name and address of Defendant)		
Phillip E. Coyle, Member Defense Base Closure and Realignment Commit 2521 South Clark Street, Suite 600 rlington, Virginia 22202	ssion	
YOU ARE HEREBY SUMMONED and requ	aired to serve upor	n PLAINTIFF'S ATTORNEY (name and address)
Terence J. Corrigan Assistant Attorney General State of Illinois 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819		
an answer to the complaint which is herewith served summons upon you, exclusive of the day of service. the relief demanded in the complaint. You must also fof time after service.	If you fail to do s	o, judgment by default will be taken against you for
Al Millatine	DATE	7/21/08

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Service of the	ne Summons and complaint was	s made by me ⁽¹⁾	DATE 07/21/05
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IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS SPRINGFIELD DIVISION



JUL 2 1 2005

State of Illinois,) JOHN M. WATERS, Clerk) U.S. DISTRICT COURT) CENTRAL DISTRICT OF ILLINOIS
Plaintiff,)
-VS-) No. <u>05-3190</u>
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission,	/)))))))
Defendants.	,)

COMPLAINT

Plaintiff, ROD BLAGOJEVICH, Governor of the State of Illinois, by his attorney, Lisa Madigan, Attorney General of the State of Illinois, and for his complaint against defendants, DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission, states as follows:

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§4.

- 3. Defendant Donald Rumsfeld is the Secretary of Defense of the United States.
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- 10. Defendant Rumsfeld has recommended to the Base Closure and Reassignment Commission that the 183rd Fighter Wing be realigned.
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or removal of the positions of 185 full time and 452 part time personnel.

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- 26. Plaintiff has not consented to withdrawal or relocation of units of the Illinois Air National Guard.
- 27. Plaintiff has informed defendants that he did not consent to withdrawal or relocation of Air National Guard units and stated that:

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pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.

- 36. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).
- 37. Venue is proper in the Central District of Illinois by virtue of the fact that the Abraham Lincoln Capital Airport where the 183rd Fighter Wing is based is in the Central District of Illinois and by virtue of the fact that the official residence of the Governor of the State of Illinois is in the Central District of Illinois.

WHEREFORE, plaintiff prays that this honorable Court grant the following relief:

- A. Enter a declaratory judgment declaring the realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld without the consent of the Governor of the State of Illinois is prohibited by federal law; and
- B. Granting such other relief as is warranted in the circumstances.

ROD BLAGOJEVICH, Governor of the State of Illinois,

Plaintiff,

LISA MADIGAN, Attorney General, State of Illinois,

Attorney for Plaintiff,

BY: /s/Terence J. Corrigan

Terence J. Corrigan, #6191237 Assistant Attorney General 500 South Second Street Springfield, IL 62706

Telephone: 217/782-5819 Facsimile: 217/524-5091

E-mail: tcorrigan@atg.state.il.us



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

The Honorable Donald H. Rumsfeld Secretary of Defense U.S. Department of Defense The Pentagon Room 3E800 Washington D.C. 20301

Dear Secretary Rumsfeld:

According to the recent BRAC recommendations issued by the Department of Defense, the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois would be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and completely disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by the Department of Defense with regard to the 183rd Fighter Wing.

Chairman Principi recently wrote you expressing his concern about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

DEFENDANT'S
EXHIBIT

A

By this letter I wish to formally notify you that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the above reference statutory citations, the actions proposed by your Department cannot proceed.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm.Proc. Rule II(I)(1)(f)



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

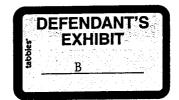
Anthony J. Principi Chairman of the Defense Base Closure and Realignment Commission 2521 South Clark Street Suite 600 Arlington, Virginia 22202

Dear Chairman Principi:

As you are aware, Secretary of Defense Donald Rumsfeld has recommended that the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by Secretary of Defense Rumsfeld with regard to the 183rd Fighter Wing.

In your recent letter to Secretary Rumsfeld, in addition to asking whether we were consulted about this recommendation, you expressed concerned about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these



recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

By this letter, I wish to formally notify the Commission that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the statutory citations referenced above, the actions proposed by Secretary Rumsfeld cannot proceed. I expressed similar sentiments to your fellow commissioners on June 20, 2005, at the BRAC Regional Hearings in St. Louis via both oral and written testimony.

Thank you for your time and consideration.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm. Proc. Rule II(I)(1)(f)

UNITED STATES DISTRICT COURT

CENTRAL	District of	ILLINOIS
DD BLAGOJEVICH, Governor of the state of Illinois,	_	CHIMMONG IN A CIVIL CACE
Plaintiff, V.		SUMMONS IN A CIVIL CASE
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI; Chairman of the Defense Base Closure and Re- Alignment Commission; JAMES BILBRAY; PHILLIP E. COYLE; HAROLD GEHMAN, JR	CASE	05-3190
JR.; JAMES HANSEN; JAMES HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER;		BRAC Commission
and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment		JUL 25 2005
Commission, Defendants.		Received
TO: (Name and address of Defendant)		
Harold W. Gehman, Jr., Member Defense Base Closure and Realignment Commis 2521 South Clark Street Suite 600 rlington, Virginia 22202	ssion	
YOU ARE HEREBY SUMMONED and requirements. Corrigan Assistant Attorney General State of Illinois 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819	ired to serve upor	n PLAINTIFF'S ATTORNEY (name and address)
an answer to the complaint which is herewith served a summons upon you, exclusive of the day of service. It the relief demanded in the complaint. You must also fi of time after service.	f you fail to do s	o, judgment by default will be taken against you for
Al Millstone	DATE /	121/05
(By) DEPUTY CLERK AO 440 (Rev. 10/93) Summons in a Civil Action		

•	v.	RETURN	OF SERVICE
Service of th	e Summons and complaint v	vas made by me ⁽¹⁾	DATE 07/21/05
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			Assistant Attorney General, State of Illinois
	low to indicate appropria	te method of service	
☐ Served pe	rsonally upon the third-par	ty defendant. Place v	where served:
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	es thereof at the defendant' then residing therein.	s dwelling house or u	sual place of abode with a person of suitable age and
Name of p	person with whom the sum	mons and complaint v	were left:
☐ Returned	unexecuted:		
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Springfiel Clark Stre	d, IL 62701: Harold W. Ge	ehman, Jr., Member of irginia 22202; and Al	k, U.S. Attorney, 600 East Monroe Street, 151 U.S. Courthouse, f the Defense Base Closure and Realignment Commission, 2521 South berto Gonzales, Attorney General of the United States, U.S. Departmen
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	the Return of Service and S	Statement of Service F	the United States of America that the foregoing information Fees is true and correct. Le J. Corrigan, Assistant Attorney General
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IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS SPRINGFIELD DIVISION



JUL 2 1 2005

State of Illinois,) JOHN M. WATERS, Clerk U.S. DISTRICT COURT CENTRAL DISTRICT OF ILLINOIS
Plaintiff,)
-VS-	No. <u>05-3190</u>
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission,	
Defendants.	•

COMPLAINT

Plaintiff, ROD BLAGOJEVICH, Governor of the State of Illinois, by his attorney, Lisa Madigan, Attorney General of the State of Illinois, and for his complaint against defendants, DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission, states as follows:

- 1. Plaintiff, Rod Blagojevich, is the Governor of the State of Illinois.
- 2. Pursuant to the Constitution and laws of the State of Illinois, plaintiff is the Commander in Chief of the military forces of the State of Illinois, except for those persons who are actively in the service of the United States. Illinois Constitution of 1970 art. XII,

- 3. Defendant Donald Rumsfeld is the Secretary of Defense of the United States.
- 4. Pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, Secretary Rumsfeld is authorized to make recommendations for the closure and realignment of federal military bases in the United States to the Defense Base Closure and Realignment Commission.
- 5. Defendant Anthony J. Principi has been named by the President of the United States to be Chairman of the Defense Base Closure and Realignment Commission.
- 6. Defendants James H. Bilbray; Phillip E. Coyle; Harold W. Gehman, Jr.; James V. Hansen; James T. Hill; Lloyd W. Newton; Samuel K. Skinner; and Sue Ellen Turner have been named by the President of the United States to be members of the Defense Base Closure and Realignment Commission.
- 7. Pursuant to Sections 2903 and 2914 of the Defense Base Closure and Realignment Act of 1990 as amended, the Defense Base Closure and Realignment Commission is empowered to consider the recommendations of the Secretary of Defense and make recommendations to the President of the United States for the closure and realignment of military bases.
- 8. Pursuant to Sections 2903 and 2904 of the Defense Base Closure and Realignment Act of 1990 as amended, the Secretary of Defense of the United States shall close the bases recommended for closure by the Commission and realign the bases recommended for realignment, unless the recommendation of the Defense Base Closure and Realignment Commission is rejected by the President of the United States or disapproved by a joint resolution of Congress.
- 9. The Air National Guard base at the Abraham Lincoln Capital Airport is used for the administering and training of the reserve components of the armed forces.

- 10. Defendant Rumsfeld has recommended to the Base Closure and Reassignment Commission that the 183rd Fighter Wing be realigned.
- 11. The 183rd Fighter Wing of the Illinois Air National Guard is presently located at the Abraham Lincoln Capital Airport in Springfield, Illinois.
- 12. A "wing" is defined by Air Force Instruction 38-101 as a level of command with approximately 1,000-5,000 persons which has a distinct mission with a significant scope and is responsible for monitoring the installation or has several squadrons in more than one dependent group. AFI 38-101 §2.2.6.
- 13. The 183rd Fighter Wing is composed of Headquarters Staff, the 183rd Operations Group, the 183rd Maintenance Group, the 183rd Medical Group, and the 183rd Mission Support Group.
 - 14. The 183rd Operations Group includes the 170th Fighter Squadron.
- 15. A "group" is a level of command consisting of approximately 500-2,000 persons usually comprising two or more subordinate units. AFI 38-101 §2.2.7.
- 16. The Groups which make up the 183rd Fighter Wing are composed of various squadrons and flights.
 - 17. A "squadron" is the "basic unit of the Air Force." AFI-38-101 §2.2.8.
- 18. A "numbered/named flight" is the lowest level unit in the Air Force. AFI 38-101 §2.2.9.1.
- 19. The wing, groups, squadrons, and flights at the Abraham Lincoln Capital Airport are "units" as the term is defined by AFI 38-101.
- 20. The proposed realignment would result in the withdrawal or relocation of the fifteen F16 fighter planes currently assigned to the 183rd Fighter Wing and the relocation

or removal of the positions of 185 full time and 452 part time personnel.

- 21. Plaintiff has information and believes that the proposed realignment will result in the withdrawal or relocation of various units of the Illinois Air National Guard, including the 170th Fighter Squadron, the 183rd Operational Support Flight, and large portions of the 183rd Maintenance Group.
- 22. The result of the withdrawal or relocation of these units is that the 183rd Fighter Wing will cease to exist, because the units remaining will be insufficient to meet the definition of a "wing."
- 23. The Illinois National Guard constitutes a portion of the reserve component of the armed forces of the United States.
- 24. Defendant Rumsfeld has recommended that units of the Illinois Air National Guard be relocated or withdrawn.
- 25. Pursuant to 10 U.S.C. §18238, "A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the State."
- 26. Plaintiff has not consented to withdrawal or relocation of units of the Illinois

 Air National Guard.
- 27. Plaintiff has informed defendants that he did not consent to withdrawal or relocation of Air National Guard units and stated that:

The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

See Exhibits A, B.

- 28. Pursuant to 32 U.S.C. §104(a) each State may fix the locations of the units and headquarters of its National Guard.
- 29. Pursuant to 32 U.S.C. §104(c) "no change in the branch, organization, or allocation of a unit located entirely within a state may be made without the approval of its Governor."
- 30. The units of the 183rd Fighter Wing are presently located entirely within the State of Illinois.
- 31. Federal law prohibits defendant Rumsfeld from taking action to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois.
- 32. Pursuant to 10 U.S.C. §18235(b)(1) the Secretary of Defense may not permit any use or disposition of a facility for a reserve component of the armed forces that would interfere with the facilities' use for administering and training the reserve components of the armed forces.
- 33. The realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld would interfere with the use of the Abraham Lincoln Capital Airport for the training and administering of reserve components of the armed forces and is barred by 10 U.S.C. §18235(b)(1).
- 34. By virtue of defendant Rumsfeld's proposal to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois an actual controversy exists between the parties.
- 35. The members of the Base Closure and Realignment Commission have interests which could be affected by the outcome of this litigation and are made defendants

pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.

- 36. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).
- 37. Venue is proper in the Central District of Illinois by virtue of the fact that the Abraham Lincoln Capital Airport where the 183rd Fighter Wing is based is in the Central District of Illinois and by virtue of the fact that the official residence of the Governor of the State of Illinois is in the Central District of Illinois.

WHEREFORE, plaintiff prays that this honorable Court grant the following relief:

- A. Enter a declaratory judgment declaring the realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld without the consent of the Governor of the State of Illinois is prohibited by federal law; and
- B. Granting such other relief as is warranted in the circumstances.

ROD BLAGOJEVICH, Governor of the State of Illinois,

Plaintiff,

LISA MADIGAN, Attorney General, State of Illinois,

Attorney for Plaintiff,

BY: /s/Terence J. Corrigan

Terence J. Corrigan, #6191237 Assistant Attorney General 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819

Telephone: 217/782-5819 Facsimile: 217/524-5091

E-mail: tcorrigan@atg.state.il.us



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

The Honorable Donald H. Rumsfeld Secretary of Defense U.S. Department of Defense The Pentagon Room 3E800 Washington D.C. 20301

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DEFENDANT'S EXHIBIT

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Sincerely,

Signature redacted pursuant to USDC-CDIL Adm.Proc. Rule II(I)(1)(f)



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

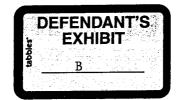
Anthony J. Principi Chairman of the Defense Base Closure and Realignment Commission 2521 South Clark Street Suite 600 Arlington, Virginia 22202

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Thank you for your time and consideration.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm. Proc. Rule II(I)(1)(f)

UNITED STATES DISTRICT COURT

CENTRAL	District of	ILLINOIS
D BLAGOJEVICH, Governor of the State of Illinois,		
Plaintiff, V.		SUMMONS IN A CIVIL CASE
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI; Chairman of the Defense Base Closure and Re-Alignment Commission; JAMES BILBRAY; PHILLIP E. COYLE; HAROLD GEHMAN, JR JR.; JAMES HANSEN; JAMES HILL; LLOYD	;	05-3190
W. NEWTON; SAMUEL K. SKINNER;	•	BRAC Commission
and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment		
Commission,		JUL 25 2005
Defendants.		Received
TO: (Name and address of Defendant)		
James V. Hansen, Member Defense Base Closure and Realignment Commis 2521 South Clark Street, Suite 600 rlington, Virginia 22202	ssion	
YOU ARE HEREBY SUMMONED and requ	ired to serve upo	n PLAINTIFF'S ATTORNEY (name and address)
Terence J. Corrigan Assistant Attorney General State of Illinois 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819		
an answer to the complaint which is herewith served summons upon you, exclusive of the day of service. the relief demanded in the complaint. You must also f of time after service.	If you fail to do	so, judgment by default will be taken against you for
·		
Sl Millatine	r	1/21/05
RK O	DATE	

	RET	URN OF SERVICE
Service of the Sumn	nons and complaint was made by me(1)	DATE 07/21/05
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e J. Corrigan	:	Assistant Attorney General, State of Illinois
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IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS SPRINGFIELD DIVISION



JUL 2 1 2005

ROD BLAGOJEVICH, Governor of the State of Illinois,) JOHN M. WATERS, Clerk) U.S. DISTRICT COURT) CENTRAL DISTRICT OF ILLINOIS
Plaintiff,)
-v s-	No. 05-3190
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission,	
Defendants.)	

COMPLAINT

Plaintiff, ROD BLAGOJEVICH, Governor of the State of Illinois, by his attorney, Lisa Madigan, Attorney General of the State of Illinois, and for his complaint against defendants, DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission, states as follows:

- 1. Plaintiff, Rod Blagojevich, is the Governor of the State of Illinois.
- 2. Pursuant to the Constitution and laws of the State of Illinois, plaintiff is the Commander in Chief of the military forces of the State of Illinois, except for those persons who are actively in the service of the United States. Illinois Constitution of 1970 art. XII, §4.

- 3. Defendant Donald Rumsfeld is the Secretary of Defense of the United States.
- 4. Pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, Secretary Rumsfeld is authorized to make recommendations for the closure and realignment of federal military bases in the United States to the Defense Base Closure and Realignment Commission.
- 5. Defendant Anthony J. Principi has been named by the President of the United States to be Chairman of the Defense Base Closure and Realignment Commission.
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- 9. The Air National Guard base at the Abraham Lincoln Capital Airport is used for the administering and training of the reserve components of the armed forces.

- 10. Defendant Rumsfeld has recommended to the Base Closure and Reassignment Commission that the 183rd Fighter Wing be realigned.
- 11. The 183rd Fighter Wing of the Illinois Air National Guard is presently located at the Abraham Lincoln Capital Airport in Springfield, Illinois.
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- 18. A "numbered/named flight" is the lowest level unit in the Air Force. AFI 38-101 §2.2.9.1.
- 19. The wing, groups, squadrons, and flights at the Abraham Lincoln Capital Airport are "units" as the term is defined by AFI 38-101.
- 20. The proposed realignment would result in the withdrawal or relocation of the fifteen F16 fighter planes currently assigned to the 183rd Fighter Wing and the relocation

or removal of the positions of 185 full time and 452 part time personnel.

- 21. Plaintiff has information and believes that the proposed realignment will result in the withdrawal or relocation of various units of the Illinois Air National Guard, including the 170th Fighter Squadron, the 183rd Operational Support Flight, and large portions of the 183rd Maintenance Group.
- 22. The result of the withdrawal or relocation of these units is that the 183rd Fighter Wing will cease to exist, because the units remaining will be insufficient to meet the definition of a "wing."
- 23. The Illinois National Guard constitutes a portion of the reserve component of the armed forces of the United States.
- 24. Defendant Rumsfeld has recommended that units of the Illinois Air National Guard be relocated or withdrawn.
- 25. Pursuant to 10 U.S.C. §18238, "A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the State."
- 26. Plaintiff has not consented to withdrawal or relocation of units of the Illinois Air National Guard.
- 27. Plaintiff has informed defendants that he did not consent to withdrawal or relocation of Air National Guard units and stated that:

The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

See Exhibits A, B.

- 28. Pursuant to 32 U.S.C. §104(a) each State may fix the locations of the units and headquarters of its National Guard.
- 29. Pursuant to 32 U.S.C. §104(c) "no change in the branch, organization, or allocation of a unit located entirely within a state may be made without the approval of its Governor."
- 30. The units of the 183rd Fighter Wing are presently located entirely within the State of Illinois.
- 31. Federal law prohibits defendant Rumsfeld from taking action to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois.
- 32. Pursuant to 10 U.S.C. §18235(b)(1) the Secretary of Defense may not permit any use or disposition of a facility for a reserve component of the armed forces that would interfere with the facilities' use for administering and training the reserve components of the armed forces.
- 33. The realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld would interfere with the use of the Abraham Lincoln Capital Airport for the training and administering of reserve components of the armed forces and is barred by 10 U.S.C. §18235(b)(1).
- 34. By virtue of defendant Rumsfeld's proposal to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois an actual controversy exists between the parties.
- 35. The members of the Base Closure and Realignment Commission have interests which could be affected by the outcome of this litigation and are made defendants

pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.

- 36. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).
- 37. Venue is proper in the Central District of Illinois by virtue of the fact that the Abraham Lincoln Capital Airport where the 183rd Fighter Wing is based is in the Central District of Illinois and by virtue of the fact that the official residence of the Governor of the State of Illinois is in the Central District of Illinois.

WHEREFORE, plaintiff prays that this honorable Court grant the following relief:

- A. Enter a declaratory judgment declaring the realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld without the consent of the Governor of the State of Illinois is prohibited by federal law; and
- B. Granting such other relief as is warranted in the circumstances.

ROD BLAGOJEVICH, Governor of the State of Illinois,

Plaintiff.

LISA MADIGAN, Attorney General, State of Illinois,

Attorney for Plaintiff,

BY: /s/Terence J. Corrigan

Terence J. Corrigan, #6191237 Assistant Attorney General 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819

Facsimile: 217/782-5819

E-mail: tcorrigan@atg.state.il.us



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

The Honorable Donald H. Rumsfeld Secretary of Defense U.S. Department of Defense The Pentagon Room 3E800 Washington D.C. 20301

Dear Secretary Rumsfeld:

According to the recent BRAC recommendations issued by the Department of Defense, the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois would be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and completely disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by the Department of Defense with regard to the 183rd Fighter Wing.

Chairman Principi recently wrote you expressing his concern about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

DEFENDANT'S EXHIBIT

By this letter I wish to formally notify you that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the above reference statutory citations, the actions proposed by your Department cannot proceed.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm.Proc. Rule II(I)(1)(f)



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

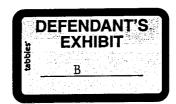
Anthony J. Principi Chairman of the Defense Base Closure and Realignment Commission 2521 South Clark Street Suite 600 Arlington, Virginia 22202

Dear Chairman Principi:

As you are aware, Secretary of Defense Donald Rumsfeld has recommended that the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by Secretary of Defense Rumsfeld with regard to the 183rd Fighter Wing.

In your recent letter to Secretary Rumsfeld, in addition to asking whether we were consulted about this recommendation, you expressed concerned about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these



recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

By this letter, I wish to formally notify the Commission that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the statutory citations referenced above, the actions proposed by Secretary Rumsfeld cannot proceed. I expressed similar sentiments to your fellow commissioners on June 20, 2005, at the BRAC Regional Hearings in St. Louis via both oral and written testimony.

Thank you for your time and consideration.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm. Proc. Rule II(I)(1)(f)

(By) DEPUTY CLERK

UNITED STATES DISTRICT COURT

CENTRAL	District of	ILLINOIS
OD BLAGOJEVICH, Governor of the State of Illinois,		
Plaintiff, V.		SUMMONS IN A CIVIL CASE
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI; Chairman of the Defense Base Closure and Re-Alignment Commission; JAMES BILBRAY; PHILLIP E. COYLE; HAROLD GEHMAN, JR JR.; JAMES HANSEN; JAMES HILL; LLOYI	CASE	05-3190
W. NEWTON; SAMUEL K. SKINNER;	,	BRAC Commission
and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment		JUL 2 5 2005
Commission, Defendants.		Received
TO: (Name and address of Defendant)		
James T. Hill, Member Defense Base Closure and Realignment Commit 2521 South Clark Street, Suite 600 Arlington, Virginia 22202	ssion	
YOU ARE HEREBY SUMMONED and requ	uired to serve upo	on PLAINTIFF'S ATTORNEY (name and address)
Terence J. Corrigan Assistant Attorney General State of Illinois 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819		
an answer to the complaint which is herewith served summons upon you, exclusive of the day of service. the relief demanded in the complaint. You must also for time after service.	If you fail to do	so, judgment by default will be taken against you for
Al Mi Waline	DATE	7/21/03

AO 440 (Rev. 10	/93) Summons in a Civil Action		
		RETURN	N OF SERVICE
Service	of the Summons and complair	nt was made by me(1)	DATE 07/21/05
AME OF SERVE			TITLE
e J. Corriga	n x below to indicate approp	riate method of service	Assistant Attorney General, State of Illinois
	ed personally upon the third-		
	copies thereof at the defenda etion then residing therein.	nt's dwelling house or us	sual place of abode with a person of suitable age and
Name	e of person with whom the si	ummons and complaint w	were left:
☐ Retu	ned unexecuted:		
<u>Sprin</u> <u>Clark</u>	gfield, IL 62701; James T. H	ill, Member of the Defer , Virginia 22202 and Alb	k, U.S. Attorney, 600 East Monroe Street, 151 U.S. Courthouse, nse Base Closure and Realignment Commission, 2521 South berto Gonzales, Attorney General of the United States, U.S. Department. D.C. 20530-001.
		STATEMENT	OF SERVICE FEES
AVEL		SERVICES	TOTAL
		DECLARAT	TION OF SERVER
	I declare under penalty of p d in the Return of Service an on 07/21/05	d Statement of Service F	e J. Corrigan, Assistant Attorney General
		Signature by serv	
	5	500 South Address of Serve.	Second Street, Springfield, IL 62706
		·	
	• i		

IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS SPRINGFIELD DIVISION



JUL 2 1 2005

State of Illinois,) JOHN M. WATERS, Clerk U.S. DISTRICT COURT CENTRAL DISTRICT OF ILLINOIS
Plaintiff,))
-VS-	No. <u>05-3190</u>
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission,	
Defendants.	

COMPLAINT

Plaintiff, ROD BLAGOJEVICH, Governor of the State of Illinois, by his attorney, Lisa Madigan, Attorney General of the State of Illinois, and for his complaint against defendants, DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission, states as follows:

- 1. Plaintiff, Rod Blagojevich, is the Governor of the State of Illinois.
- 2. Pursuant to the Constitution and laws of the State of Illinois, plaintiff is the Commander in Chief of the military forces of the State of Illinois, except for those persons who are actively in the service of the United States. Illinois Constitution of 1970 art. XII,

- 3. Defendant Donald Rumsfeld is the Secretary of Defense of the United States.
- 4. Pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, Secretary Rumsfeld is authorized to make recommendations for the closure and realignment of federal military bases in the United States to the Defense Base Closure and Realignment Commission.
- 5. Defendant Anthony J. Principi has been named by the President of the United States to be Chairman of the Defense Base Closure and Realignment Commission.
- 6. Defendants James H. Bilbray; Phillip E. Coyle; Harold W. Gehman, Jr.; James V. Hansen; James T. Hill; Lloyd W. Newton; Samuel K. Skinner; and Sue Ellen Turner have been named by the President of the United States to be members of the Defense Base Closure and Realignment Commission.
- 7. Pursuant to Sections 2903 and 2914 of the Defense Base Closure and Realignment Act of 1990 as amended, the Defense Base Closure and Realignment Commission is empowered to consider the recommendations of the Secretary of Defense and make recommendations to the President of the United States for the closure and realignment of military bases.
- 8. Pursuant to Sections 2903 and 2904 of the Defense Base Closure and Realignment Act of 1990 as amended, the Secretary of Defense of the United States shall close the bases recommended for closure by the Commission and realign the bases recommended for realignment, unless the recommendation of the Defense Base Closure and Realignment Commission is rejected by the President of the United States or disapproved by a joint resolution of Congress.
- 9. The Air National Guard base at the Abraham Lincoln Capital Airport is used for the administering and training of the reserve components of the armed forces.

- 10. Defendant Rumsfeld has recommended to the Base Closure and Reassignment Commission that the 183rd Fighter Wing be realigned.
- 11. The 183rd Fighter Wing of the Illinois Air National Guard is presently located at the Abraham Lincoln Capital Airport in Springfield, Illinois.
- 12. A "wing" is defined by Air Force Instruction 38-101 as a level of command with approximately 1,000-5,000 persons which has a distinct mission with a significant scope and is responsible for monitoring the installation or has several squadrons in more than one dependent group. AFI 38-101 §2.2.6.
- 13. The 183rd Fighter Wing is composed of Headquarters Staff, the 183rd Operations Group, the 183rd Maintenance Group, the 183rd Medical Group, and the 183rd Mission Support Group.
 - 14. The 183rd Operations Group includes the 170th Fighter Squadron.
- 15. A "group" is a level of command consisting of approximately 500-2,000 persons usually comprising two or more subordinate units. AFI 38-101 §2.2.7.
- 16. The Groups which make up the 183rd Fighter Wing are composed of various squadrons and flights.
 - 17. A "squadron" is the "basic unit of the Air Force." AFI-38-101 §2.2.8.
- 18. A "numbered/named flight" is the lowest level unit in the Air Force. AFI 38-101 §2.2.9.1.
- 19. The wing, groups, squadrons, and flights at the Abraham Lincoln Capital Airport are "units" as the term is defined by AFI 38-101.
- 20. The proposed realignment would result in the withdrawal or relocation of the fifteen F16 fighter planes currently assigned to the 183rd Fighter Wing and the relocation

or removal of the positions of 185 full time and 452 part time personnel.

- 21. Plaintiff has information and believes that the proposed realignment will result in the withdrawal or relocation of various units of the Illinois Air National Guard, including the 170th Fighter Squadron, the 183rd Operational Support Flight, and large portions of the 183rd Maintenance Group.
- 22. The result of the withdrawal or relocation of these units is that the 183rd Fighter Wing will cease to exist, because the units remaining will be insufficient to meet the definition of a "wing."
- 23. The Illinois National Guard constitutes a portion of the reserve component of the armed forces of the United States.
- 24. Defendant Rumsfeld has recommended that units of the Illinois Air National Guard be relocated or withdrawn.
- 25. Pursuant to 10 U.S.C. §18238, "A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the State."
- 26. Plaintiff has not consented to withdrawal or relocation of units of the Illinois

 Air National Guard.
- 27. Plaintiff has informed defendants that he did not consent to withdrawal or relocation of Air National Guard units and stated that:

The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

See Exhibits A, B.

- 28. Pursuant to 32 U.S.C. §104(a) each State may fix the locations of the units and headquarters of its National Guard.
- 29. Pursuant to 32 U.S.C. §104(c) "no change in the branch, organization, or allocation of a unit located entirely within a state may be made without the approval of its Governor."
- 30. The units of the 183rd Fighter Wing are presently located entirely within the State of Illinois.
- 31. Federal law prohibits defendant Rumsfeld from taking action to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois.
- 32. Pursuant to 10 U.S.C. §18235(b)(1) the Secretary of Defense may not permit any use or disposition of a facility for a reserve component of the armed forces that would interfere with the facilities' use for administering and training the reserve components of the armed forces.
- 33. The realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld would interfere with the use of the Abraham Lincoln Capital Airport for the training and administering of reserve components of the armed forces and is barred by 10 U.S.C. §18235(b)(1).
- 34. By virtue of defendant Rumsfeld's proposal to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois an actual controversy exists between the parties.
- 35. The members of the Base Closure and Realignment Commission have interests which could be affected by the outcome of this litigation and are made defendants

pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.

- 36. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).
- 37. Venue is proper in the Central District of Illinois by virtue of the fact that the Abraham Lincoln Capital Airport where the 183rd Fighter Wing is based is in the Central District of Illinois and by virtue of the fact that the official residence of the Governor of the State of Illinois is in the Central District of Illinois.

WHEREFORE, plaintiff prays that this honorable Court grant the following relief:

- A. Enter a declaratory judgment declaring the realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld without the consent of the Governor of the State of Illinois is prohibited by federal law; and
- B. Granting such other relief as is warranted in the circumstances.

ROD BLAGOJEVICH, Governor of the State of Illinois,

Plaintiff,

LISA MADIGAN, Attorney General, State of Illinois,

Attorney for Plaintiff,

BY: /s/Terence J. Corrigan

Terence J. Corrigan, #6191237 Assistant Attorney General 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819

Facsimile: 217/782-5819

E-mail: tcorrigan@atg.state.il.us



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

The Honorable Donald H. Rumsfeld Secretary of Defense U.S. Department of Defense The Pentagon Room 3E800 Washington D.C. 20301

Dear Secretary Rumsfeld:

According to the recent BRAC recommendations issued by the Department of Defense, the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois would be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and completely disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by the Department of Defense with regard to the 183rd Fighter Wing.

Chairman Principi recently wrote you expressing his concern about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

DEFENDANT'S EXHIBIT

By this letter I wish to formally notify you that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the above reference statutory citations, the actions proposed by your Department cannot proceed.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm.Proc. Rule II(I)(1)(f)



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

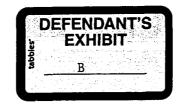
Anthony J. Principi Chairman of the Defense Base Closure and Realignment Commission 2521 South Clark Street Suite 600 Arlington, Virginia 22202

Dear Chairman Principi:

As you are aware, Secretary of Defense Donald Rumsfeld has recommended that the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

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In your recent letter to Secretary Rumsfeld, in addition to asking whether we were consulted about this recommendation, you expressed concerned about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these



recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

By this letter, I wish to formally notify the Commission that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the statutory citations referenced above, the actions proposed by Secretary Rumsfeld cannot proceed. I expressed similar sentiments to your fellow commissioners on June 20, 2005, at the BRAC Regional Hearings in St. Louis via both oral and written testimony.

Thank you for your time and consideration.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm. Proc. Rule II(I)(1)(f)

UNITED STATES DISTRICT COURT

CENTRAL	_ District of _	ILLINOIS	
OD BLAGOJEVICH, Governor of the			
State of Illinois,			
Plaintiff, V.		SUMMONS IN A CIVIL CA	SE
DONALD RUMSFELD, Secretary of Defen			
of the United States; ANTHONY J. PRINCI	PI;	5.) 6	
Chairman of the Defense Base Closure and I	Re- CASE	05-3190	
Alignment Commission; JAMES BILBRAY PHILLIP E. COYLE; HAROLD GEHMAN			
JR.; JAMES HANSEN; JAMES HILL; LLC			
W. NEWTON; SAMUEL K. SKINNER;		BRAC Commission	
and SUE ELLEN TURNER, members of the	;	Divice Com-	
Defense Base Closure and Realignment		JUL 25 2005.	
Commission,		·	
Defendants.		Received	
TO: (Name and address of Defendant)			
Lloyd W. Newton, Member			
Defense Base Closure and Realignment Com	ımission		
2521 South Clark Street, Suite 600			
rlington, Virginia 22202			
YOU ARE WERENS COMMONIER J		DI AINTEERS ATTODNEY	
YOU ARE HEREBY SUMMONED and	required to serve upon	PLAINTIFF S ATTORNEY (name and ac	idress)
Terence J. Corrigan			
Assistant Attorney General State of Illinois			
500 South Second Street			
Springfield, IL 62706			
Telephone: 217/782-5819			
an answer to the complaint which is herewith serv			
summons upon you, exclusive of the day of service	ce. If you fail to do s	o, judgment by default will be taken a	gainst you for
he relief demanded in the complaint. You must all of time after service.	so file your answer w	ith the Clerk of this Court within a reas	ionable period
of time after service.			
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Served personally upon the third-party defendant. Place where served:	Service of the Summons and complaint was made by me ⁽ⁱ⁾ EOF SERVER (PRINT) TITLE Assistant Attorney General, State of Illinois pieck one box below to indicate appropriate method of service Served personally upon the third-party defendant. Place where served: Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: Returned unexecuted: x Other (specify): Certified mail to the Civil Process Clerk, U.S. Attorney, 600 East Monroe Street, 151 U.S. Courthouse, Springfield, IL 62701: Lloyd W. Newton, Member of the Defense Base Closure and Realignment Commission, 2521 South Clark Street, Suite 600, Arlington, Virginia 22202 and Alberto Gonzales, Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-001. STATEMENT OF SERVICE FEES TOTAL DECLARATION OF SERVER I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct. Executed on 07/21/05 /s/Terence J. Corrigan, Assistant Attorney General Signature of Server 500 South Second Street, Springfield, IL 62706	Service of the Summons and complaint was made by me ⁽¹⁾ 07/21/05			RETURN OF S	ERVICE
E OF SERVER (PRINT) TITLE Assistant Attorney General, State of Illinois neck one box below to indicate appropriate method of service Served personally upon the third-party defendant. Place where served: Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: Returned unexecuted: x Other (specify): Certified mail to the Civil Process Clerk, U.S. Attorney, 600 East Monroe Street, 151 U.S. Courthouse, Springfield, IL 62701: Lloyd W. Newton, Member of the Defense Base Closure and Realignment Commission, 2521 South Clark Street, Suite 600, Arlington, Virginia 22202 and Alberto Gonzales, Attorney General of the United States, U.S. Depa of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-001. STATEMENT OF SERVICE FEES EL SERVICES TOTAL DECLARATION OF SERVER I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct. Executed on 07/21/05 /s/Terence J. Corrigan, Assistant Attorney General Signature of Server 500 South Second Street, Springfield, IL 62706	E OF SERVER (PRINT) ree J. Corrigan Assistant Attorney General, State of Illinois heck one box below to indicate appropriate method of service Served personally upon the third-party defendant. Place where served: Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: Returned unexecuted: X Other (specify): Certified mail to the Civil Process Clerk, U.S. Attorney, 600 East Monroe Street, 151 U.S. Courthouse, Springfield, IL 62701; Lloyd W. Newton, Member of the Defense Base Closure and Realignment Commission, 2521 South Clark Street, Suite 600, Arlington, Virginia 22202 and Alberto Gonzales, Attorney General of the United States, U.S. Departm of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-001. STATEMENT OF SERVICE FEES	E OF SERVER (PRINT) ree J. Corrigan Assistant Attorney General, State of Illinois heck one box below to indicate appropriate method of service Served personally upon the third-party defendant. Place where served: Left copies thereof at he defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: Returned unexecuted: X Other (specify): Certified mail to the Civil Process Clerk, U.S. Attorney, 600 East Monroe Street, 151 U.S. Courthouse, Springfield, IL 62701; Lloyd W. Newton, Member of the Defense Base Closure and Realignment Commission, 2521 South Clark Street, Suite 600, Arlington, Virginia 22202 and Alberto Gonzales, Attorney General of the United States, U.S. Departm of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-001. STATEMENT OF SERVICE FEES	s	Service of the Summons and complaint was n	nade by me ⁽¹⁾	
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IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS SPRINGFIELD DIVISION



JUL 2 1 2005

ROD BLAGOJEVICH, Governor of the State of Illinois,) JOHN M. WATERS, Clerk) U.S. DISTRICT COURT) CENTRAL DISTRICT OF ILLINOIS
Plaintiff,)
-VS-	No. 05-3190
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission,	/)))))
Defendants.	

COMPLAINT

Plaintiff, ROD BLAGOJEVICH, Governor of the State of Illinois, by his attorney, Lisa Madigan, Attorney General of the State of Illinois, and for his complaint against defendants, DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission, states as follows:

- 1. Plaintiff, Rod Blagojevich, is the Governor of the State of Illinois.
- 2. Pursuant to the Constitution and laws of the State of Illinois, plaintiff is the Commander in Chief of the military forces of the State of Illinois, except for those persons who are actively in the service of the United States. Illinois Constitution of 1970 art. XII,

- 3. Defendant Donald Rumsfeld is the Secretary of Defense of the United States.
- 4. Pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, Secretary Rumsfeld is authorized to make recommendations for the closure and realignment of federal military bases in the United States to the Defense Base Closure and Realignment Commission.
- 5. Defendant Anthony J. Principi has been named by the President of the United States to be Chairman of the Defense Base Closure and Realignment Commission.
- 6. Defendants James H. Bilbray; Phillip E. Coyle; Harold W. Gehman, Jr.; James V. Hansen; James T. Hill; Lloyd W. Newton; Samuel K. Skinner; and Sue Ellen Turner have been named by the President of the United States to be members of the Defense Base Closure and Realignment Commission.
- 7. Pursuant to Sections 2903 and 2914 of the Defense Base Closure and Realignment Act of 1990 as amended, the Defense Base Closure and Realignment Commission is empowered to consider the recommendations of the Secretary of Defense and make recommendations to the President of the United States for the closure and realignment of military bases.
- 8. Pursuant to Sections 2903 and 2904 of the Defense Base Closure and Realignment Act of 1990 as amended, the Secretary of Defense of the United States shall close the bases recommended for closure by the Commission and realign the bases recommended for realignment, unless the recommendation of the Defense Base Closure and Realignment Commission is rejected by the President of the United States or disapproved by a joint resolution of Congress.
- 9. The Air National Guard base at the Abraham Lincoln Capital Airport is used for the administering and training of the reserve components of the armed forces.

- 10. Defendant Rumsfeld has recommended to the Base Closure and Reassignment Commission that the 183rd Fighter Wing be realigned.
- 11. The 183rd Fighter Wing of the Illinois Air National Guard is presently located at the Abraham Lincoln Capital Airport in Springfield, Illinois.
- 12. A "wing" is defined by Air Force Instruction 38-101 as a level of command with approximately 1,000-5,000 persons which has a distinct mission with a significant scope and is responsible for monitoring the installation or has several squadrons in more than one dependent group. AFI 38-101 §2.2.6.
- 13. The 183rd Fighter Wing is composed of Headquarters Staff, the 183rd Operations Group, the 183rd Maintenance Group, the 183rd Medical Group, and the 183rd Mission Support Group.
 - 14. The 183rd Operations Group includes the 170th Fighter Squadron.
- 15. A "group" is a level of command consisting of approximately 500-2,000 persons usually comprising two or more subordinate units. AFI 38-101 §2.2.7.
- 16. The Groups which make up the 183rd Fighter Wing are composed of various squadrons and flights.
 - 17. A "squadron" is the "basic unit of the Air Force." AFI-38-101 §2.2.8.
- 18. A "numbered/named flight" is the lowest level unit in the Air Force. AFI 38-101 §2.2.9.1.
- 19. The wing, groups, squadrons, and flights at the Abraham Lincoln Capital Airport are "units" as the term is defined by AFI 38-101.
- 20. The proposed realignment would result in the withdrawal or relocation of the fifteen F16 fighter planes currently assigned to the 183rd Fighter Wing and the relocation

or removal of the positions of 185 full time and 452 part time personnel.

- 21. Plaintiff has information and believes that the proposed realignment will result in the withdrawal or relocation of various units of the Illinois Air National Guard, including the 170th Fighter Squadron, the 183rd Operational Support Flight, and large portions of the 183rd Maintenance Group.
- 22. The result of the withdrawal or relocation of these units is that the 183rd Fighter Wing will cease to exist, because the units remaining will be insufficient to meet the definition of a "wing."
- 23. The Illinois National Guard constitutes a portion of the reserve component of the armed forces of the United States.
- 24. Defendant Rumsfeld has recommended that units of the Illinois Air National Guard be relocated or withdrawn.
- 25. Pursuant to 10 U.S.C. §18238, "A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the State."
- 26. Plaintiff has not consented to withdrawal or relocation of units of the Illinois

 Air National Guard.
- 27. Plaintiff has informed defendants that he did not consent to withdrawal or relocation of Air National Guard units and stated that:

The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

See Exhibits A, B.

- 28. Pursuant to 32 U.S.C. §104(a) each State may fix the locations of the units and headquarters of its National Guard.
- 29. Pursuant to 32 U.S.C. §104(c) "no change in the branch, organization, or allocation of a unit located entirely within a state may be made without the approval of its Governor."
- 30. The units of the 183rd Fighter Wing are presently located entirely within the State of Illinois.
- 31. Federal law prohibits defendant Rumsfeld from taking action to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois.
- 32. Pursuant to 10 U.S.C. §18235(b)(1) the Secretary of Defense may not permit any use or disposition of a facility for a reserve component of the armed forces that would interfere with the facilities' use for administering and training the reserve components of the armed forces.
- 33. The realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld would interfere with the use of the Abraham Lincoln Capital Airport for the training and administering of reserve components of the armed forces and is barred by 10 U.S.C. §18235(b)(1).
- 34. By virtue of defendant Rumsfeld's proposal to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois an actual controversy exists between the parties.
- 35. The members of the Base Closure and Realignment Commission have interests which could be affected by the outcome of this litigation and are made defendants

pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.

- 36. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).
- 37. Venue is proper in the Central District of Illinois by virtue of the fact that the Abraham Lincoln Capital Airport where the 183rd Fighter Wing is based is in the Central District of Illinois and by virtue of the fact that the official residence of the Governor of the State of Illinois is in the Central District of Illinois.

WHEREFORE, plaintiff prays that this honorable Court grant the following relief:

- A. Enter a declaratory judgment declaring the realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld without the consent of the Governor of the State of Illinois is prohibited by federal law; and
- B. Granting such other relief as is warranted in the circumstances.

ROD BLAGOJEVICH, Governor of the State of Illinois,

Plaintiff,

LISA MADIGAN, Attorney General, State of Illinois,

Attorney for Plaintiff,

BY: /s/Terence J. Corrigan

Terence J. Corrigan, #6191237 Assistant Attorney General 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819

Facsimile: 217/524-5091

E-mail: tcorrigan@atg.state.il.us



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

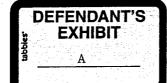
The Honorable Donald H. Rumsfeld Secretary of Defense U.S. Department of Defense The Pentagon Room 3E800 Washington D.C. 20301

Dear Secretary Rumsfeld:

According to the recent BRAC recommendations issued by the Department of Defense, the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois would be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and completely disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by the Department of Defense with regard to the 183rd Fighter Wing.

Chairman Principi recently wrote you expressing his concern about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.



By this letter I wish to formally notify you that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the above reference statutory citations, the actions proposed by your Department cannot proceed.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm.Proc. Rule II(I)(1)(f)



Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

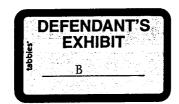
Anthony J. Principi Chairman of the Defense Base Closure and Realignment Commission 2521 South Clark Street Suite 600 Arlington, Virginia 22202

Dear Chairman Principi:

As you are aware, Secretary of Defense Donald Rumsfeld has recommended that the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by Secretary of Defense Rumsfeld with regard to the 183rd Fighter Wing.

In your recent letter to Secretary Rumsfeld, in addition to asking whether we were consulted about this recommendation, you expressed concerned about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these



recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

By this letter, I wish to formally notify the Commission that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the statutory citations referenced above, the actions proposed by Secretary Rumsfeld cannot proceed. I expressed similar sentiments to your fellow commissioners on June 20, 2005, at the BRAC Regional Hearings in St. Louis via both oral and written testimony.

Thank you for your time and consideration.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm. Proc. Rule II(I)(1)(f)

(By) DEPUTY CLERK

UNITED STATES DISTRICT COURT

CENTRAL	District of	ILLINOIS
ROD BLAGOJEVICH, Governor of the		
State of Illinois,		
Plaintiff, V.		SUMMONS IN A CIVIL CASE
DONALD RUMSFELD, Secretary of Defense		
of the United States; ANTHONY J. PRINCIPI;		
Chairman of the Defense Base Closure and Re-	CASE	05-3190
Alignment Commission; JAMES BILBRAY;		00 200
PHILLIP E. COYLE; HAROLD GEHMAN, JR		
JR.; JAMES HANSEN; JAMES HILL; LLOYI)	BRAC Commission
W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the		·
Defense Base Closure and Realignment		JUL 25 2005
Commission,		Received
Defendants.		ntects v et
(
TO: (Name and address of Defendant)		
Anthony J. Principi, Chairman		
Defense Base Closure and Realignment Commi 2521 South Clark Street, Suite 600	ssion	
Arlington, Virginia 22202	·	
Trimgton, Virginia 22202		
YOU ARE HEREBY SUMMONED and requ	ired to serve upor	n PLAINTIFF'S ATTORNEY (name and address)
Terence J. Corrigan		
Assistant Attorney General		
State of Illinois 500 South Second Street		
Springfield, IL 62706		
Telephone: 217/782-5819		
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	If you fail to do	days after service of this so, judgment by default will be taken against you for with the Clerk of this Court within a reasonable period
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ce J. Corrigan				Assistant Attorney General, State of Illinois	
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IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS SPRINGFIELD DIVISION

FILED

JUL 2 1 2005

ROD BLAGOJEVICH, Governor of the State of Illinois,	JOHN M. WATERS, Clerk U.S. DISTRICT COURT CENTRAL DISTRICT OF ILLINOIS	
Plaintiff,)	
-vs-	No. 05-3190	
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission,	/))))))	
Defendants.	<i>)</i> }	

COMPLAINT

Plaintiff, ROD BLAGOJEVICH, Governor of the State of Illinois, by his attorney, Lisa Madigan, Attorney General of the State of Illinois, and for his complaint against defendants, DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission, states as follows:

- 1. Plaintiff, Rod Blagojevich, is the Governor of the State of Illinois.
- 2. Pursuant to the Constitution and laws of the State of Illinois, plaintiff is the Commander in Chief of the military forces of the State of Illinois, except for those persons who are actively in the service of the United States. Illinois Constitution of 1970 art. XII, §4.

- 3. Defendant Donald Rumsfeld is the Secretary of Defense of the United States.
- 4. Pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, Secretary Rumsfeld is authorized to make recommendations for the closure and realignment of federal military bases in the United States to the Defense Base Closure and Realignment Commission.
- 5. Defendant Anthony J. Principi has been named by the President of the United States to be Chairman of the Defense Base Closure and Realignment Commission.
- 6. Defendants James H. Bilbray; Phillip E. Coyle; Harold W. Gehman, Jr.; James V. Hansen; James T. Hill; Lloyd W. Newton; Samuel K. Skinner; and Sue Ellen Turner have been named by the President of the United States to be members of the Defense Base Closure and Realignment Commission.
- 7. Pursuant to Sections 2903 and 2914 of the Defense Base Closure and Realignment Act of 1990 as amended, the Defense Base Closure and Realignment Commission is empowered to consider the recommendations of the Secretary of Defense and make recommendations to the President of the United States for the closure and realignment of military bases.
- 8. Pursuant to Sections 2903 and 2904 of the Defense Base Closure and Realignment Act of 1990 as amended, the Secretary of Defense of the United States shall close the bases recommended for closure by the Commission and realign the bases recommended for realignment, unless the recommendation of the Defense Base Closure and Realignment Commission is rejected by the President of the United States or disapproved by a joint resolution of Congress.
- 9. The Air National Guard base at the Abraham Lincoln Capital Airport is used for the administering and training of the reserve components of the armed forces.

- 10. Defendant Rumsfeld has recommended to the Base Closure and Reassignment Commission that the 183rd Fighter Wing be realigned.
- 11. The 183rd Fighter Wing of the Illinois Air National Guard is presently located at the Abraham Lincoln Capital Airport in Springfield, Illinois.
- 12. A "wing" is defined by Air Force Instruction 38-101 as a level of command with approximately 1,000-5,000 persons which has a distinct mission with a significant scope and is responsible for monitoring the installation or has several squadrons in more than one dependent group. AFI 38-101 §2.2.6.
- 13. The 183rd Fighter Wing is composed of Headquarters Staff, the 183rd Operations Group, the 183rd Maintenance Group, the 183rd Medical Group, and the 183rd Mission Support Group.
 - 14. The 183rd Operations Group includes the 170th Fighter Squadron.
- 15. A "group" is a level of command consisting of approximately 500-2,000 persons usually comprising two or more subordinate units. AFI 38-101 §2.2.7.
- 16. The Groups which make up the 183rd Fighter Wing are composed of various squadrons and flights.
 - 17. A "squadron" is the "basic unit of the Air Force." AFI-38-101 §2.2.8.
- 18. A "numbered/named flight" is the lowest level unit in the Air Force. AFI 38-101 §2.2.9.1.
- 19. The wing, groups, squadrons, and flights at the Abraham Lincoln Capital Airport are "units" as the term is defined by AFI 38-101.
- 20. The proposed realignment would result in the withdrawal or relocation of the fifteen F16 fighter planes currently assigned to the 183rd Fighter Wing and the relocation

or removal of the positions of 185 full time and 452 part time personnel.

- 21. Plaintiff has information and believes that the proposed realignment will result in the withdrawal or relocation of various units of the Illinois Air National Guard, including the 170th Fighter Squadron, the 183rd Operational Support Flight, and large portions of the 183rd Maintenance Group.
- 22. The result of the withdrawal or relocation of these units is that the 183rd Fighter Wing will cease to exist, because the units remaining will be insufficient to meet the definition of a "wing."
- 23. The Illinois National Guard constitutes a portion of the reserve component of the armed forces of the United States.
- 24. Defendant Rumsfeld has recommended that units of the Illinois Air National Guard be relocated or withdrawn.
- 25. Pursuant to 10 U.S.C. §18238, "A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the State."
- 26. Plaintiff has not consented to withdrawal or relocation of units of the Illinois

 Air National Guard.
- 27. Plaintiff has informed defendants that he did not consent to withdrawal or relocation of Air National Guard units and stated that:

The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

See Exhibits A. B.

- 28. Pursuant to 32 U.S.C. §104(a) each State may fix the locations of the units and headquarters of its National Guard.
- 29. Pursuant to 32 U.S.C. §104(c) "no change in the branch, organization, or allocation of a unit located entirely within a state may be made without the approval of its Governor."
- 30. The units of the 183rd Fighter Wing are presently located entirely within the State of Illinois.
- 31. Federal law prohibits defendant Rumsfeld from taking action to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois.
- 32. Pursuant to 10 U.S.C. §18235(b)(1) the Secretary of Defense may not permit any use or disposition of a facility for a reserve component of the armed forces that would interfere with the facilities' use for administering and training the reserve components of the armed forces.
- 33. The realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld would interfere with the use of the Abraham Lincoln Capital Airport for the training and administering of reserve components of the armed forces and is barred by 10 U.S.C. §18235(b)(1).
- 34. By virtue of defendant Rumsfeld's proposal to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois an actual controversy exists between the parties.
- 35. The members of the Base Closure and Realignment Commission have interests which could be affected by the outcome of this litigation and are made defendants

pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.

- 36. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).
- 37. Venue is proper in the Central District of Illinois by virtue of the fact that the Abraham Lincoln Capital Airport where the 183rd Fighter Wing is based is in the Central District of Illinois and by virtue of the fact that the official residence of the Governor of the State of Illinois is in the Central District of Illinois.

WHEREFORE, plaintiff prays that this honorable Court grant the following relief:

- A. Enter a declaratory judgment declaring the realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld without the consent of the Governor of the State of Illinois is prohibited by federal law; and
- B. Granting such other relief as is warranted in the circumstances.

ROD BLAGOJEVICH, Governor of the State of Illinois,

Plaintiff,

LISA MADIGAN, Attorney General, State of Illinois,

Attorney for Plaintiff,

BY: /s/Terence J. Corrigan

Terence J. Corrigan, #6191237 Assistant Attorney General 500 South Second Street Springfield, IL 62706 Telephone: 217/782-5819

Telephone: 217/782-5819 Facsimile: 217/524-5091

E-mail: tcorrigan@atg.state.il.us



OFFICE OF THE GOVERNOR

Rod R. Blagojevich
JRTC, 100 West RANDOLPH, SUITE 16-100
CHICAGO, ILLINOIS 60601

July 11, 2005

The Honorable Donald H. Rumsfeld Secretary of Defense U.S. Department of Defense The Pentagon Room 3E800 Washington D.C. 20301

Dear Secretary Rumsfeld:

According to the recent BRAC recommendations issued by the Department of Defense, the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois would be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and completely disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by the Department of Defense with regard to the 183rd Fighter Wing.

Chairman Principi recently wrote you expressing his concern about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

DEFENDANT'S
EXHIBIT
A

By this letter I wish to formally notify you that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the above reference statutory citations, the actions proposed by your Department cannot proceed.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm. Proc. Rule II(I)(1)(f)



OFFICE OF THE GOVERNOR

Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

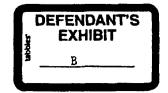
Anthony J. Principi Chairman of the Defense Base Closure and Realignment Commission 2521 South Clark Street Suite 600 Arlington, Virginia 22202

Dear Chairman Principi:

As you are aware, Secretary of Defense Donald Rumsfeld has recommended that the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by Secretary of Defense Rumsfeld with regard to the 183rd Fighter Wing.

In your recent letter to Secretary Rumsfeld, in addition to asking whether we were consulted about this recommendation, you expressed concerned about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these



recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

By this letter, I wish to formally notify the Commission that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the statutory citations referenced above, the actions proposed by Secretary Rumsfeld cannot proceed. I expressed similar sentiments to your fellow commissioners on June 20, 2005, at the BRAC Regional Hearings in St. Louis via both oral and written testimony.

Thank you for your time and consideration.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm. Proc. Rule II(I)(1)(f)

(By) DEPUTY CLERK

UNITED STATES DISTRICT COURT

DD BLAGOJEVICH, Governor of the state of Illinois, Plaintiff, V. DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI;	CASE	SUMMONS IN A CIVIL CASE	
Plaintiff, V. DONALD RUMSFELD, Secretary of Defense	CASE		
V. DONALD RUMSFELD, Secretary of Defense	CASE		
DONALD RUMSFELD, Secretary of Defense	CASE	05-8100	
of the United States; ANTHONY J. PRINCIPI;	CASE	05-8100	
	CASE	05 - 8100	
Chairman of the Defense Base Closure and Re- Alignment Commission; JAMES BILBRAY;		S	
PHILLIP E. COYLE; HAROLD GEHMAN, JR;			
JR.; JAMES HANSEN; JAMES HILL; LLOYD			
W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the		BRAC Commission	
Defense Base Closure and Realignment		JUL 25 2005	
Commission,			
Defendants.		Received	
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TO: (Name and address of Defendant)			
Sue Ellen Turner, Member			
Defense Base Closure and Realignment Commission	on		
2521 South Clark Street, Suite 600rlington, Virginia 22202			
Timgton, Viiginia 22202			
YOU ARE HEREBY SUMMONED and require	d to serve upo	on PLAINTIFF'S ATTORNEY (name and address)	
Terence J. Corrigan			
Assistant Attorney General			
State of Illinois 500 South Second Street			
Springfield, IL 62706			
Telephone: 217/782-5819			
an answer to the complaint which is herewith served up	=		
summons upon you, exclusive of the day of service. If yethe relief demanded in the complaint. You must also file	you fail to do	so, judgment by default will be taken agains with the Clerk of this Court within a reasonab	t you tor le period
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	/	7/21/02	
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	□ Served personally upon the third-party defendant. Place where served:				
[es thereof at the defendant then residing therein.	ant's dwelling house or usu	al place of abode with a person of suitable age and	
	Name of person with whom the summons and complaint were left:				
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IN THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS SPRINGFIELD DIVISION



JUL 2 1 2005

State of Illinois,) JOHN M. WATERS, Clerk) U.S. DISTRICT COURT) CENTRAL DISTRICT OF ILLINOIS
Plaintiff,)
-vs-	No. 05-3190
DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission,	
Defendants.	

COMPLAINT

Plaintiff, ROD BLAGOJEVICH, Governor of the State of Illinois, by his attorney, Lisa Madigan, Attorney General of the State of Illinois, and for his complaint against defendants, DONALD RUMSFELD, Secretary of Defense of the United States; ANTHONY J. PRINCIPI, Chairman of the Defense Base Closure and Realignment Commission; JAMES H. BILBRAY; PHILLIP E. COYLE; HAROLD W. GEHMAN, JR.; JAMES V. HANSEN; JAMES T. HILL; LLOYD W. NEWTON; SAMUEL K. SKINNER; and SUE ELLEN TURNER, members of the Defense Base Closure and Realignment Commission, states as follows:

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- 2. Pursuant to the Constitution and laws of the State of Illinois, plaintiff is the Commander in Chief of the military forces of the State of Illinois, except for those persons who are actively in the service of the United States. Illinois Constitution of 1970 art. XII, §4.

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- 6. Defendants James H. Bilbray; Phillip E. Coyle; Harold W. Gehman, Jr.; James V. Hansen; James T. Hill; Lloyd W. Newton; Samuel K. Skinner; and Sue Ellen Turner have been named by the President of the United States to be members of the Defense Base Closure and Realignment Commission.
- 7. Pursuant to Sections 2903 and 2914 of the Defense Base Closure and Realignment Act of 1990 as amended, the Defense Base Closure and Realignment Commission is empowered to consider the recommendations of the Secretary of Defense and make recommendations to the President of the United States for the closure and realignment of military bases.
- 8. Pursuant to Sections 2903 and 2904 of the Defense Base Closure and Realignment Act of 1990 as amended, the Secretary of Defense of the United States shall close the bases recommended for closure by the Commission and realign the bases recommended for realignment, unless the recommendation of the Defense Base Closure and Realignment Commission is rejected by the President of the United States or disapproved by a joint resolution of Congress.
- 9. The Air National Guard base at the Abraham Lincoln Capital Airport is used for the administering and training of the reserve components of the armed forces.

- 10. Defendant Rumsfeld has recommended to the Base Closure and Reassignment Commission that the 183rd Fighter Wing be realigned.
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- 12. A "wing" is defined by Air Force Instruction 38-101 as a level of command with approximately 1,000-5,000 persons which has a distinct mission with a significant scope and is responsible for monitoring the installation or has several squadrons in more than one dependent group. AFI 38-101 §2.2.6.
- 13. The 183rd Fighter Wing is composed of Headquarters Staff, the 183rd Operations Group, the 183rd Maintenance Group, the 183rd Medical Group, and the 183rd Mission Support Group.
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- 16. The Groups which make up the 183rd Fighter Wing are composed of various squadrons and flights.
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- 19. The wing, groups, squadrons, and flights at the Abraham Lincoln Capital Airport are "units" as the term is defined by AFI 38-101.
- 20. The proposed realignment would result in the withdrawal or relocation of the fifteen F16 fighter planes currently assigned to the 183rd Fighter Wing and the relocation

or removal of the positions of 185 full time and 452 part time personnel.

- 21. Plaintiff has information and believes that the proposed realignment will result in the withdrawal or relocation of various units of the Illinois Air National Guard, including the 170th Fighter Squadron, the 183rd Operational Support Flight, and large portions of the 183rd Maintenance Group.
- 22. The result of the withdrawal or relocation of these units is that the 183rd Fighter Wing will cease to exist, because the units remaining will be insufficient to meet the definition of a "wing."
- 23. The Illinois National Guard constitutes a portion of the reserve component of the armed forces of the United States.
- 24. Defendant Rumsfeld has recommended that units of the Illinois Air National Guard be relocated or withdrawn.
- 25. Pursuant to 10 U.S.C. §18238, "A unit of the Army National Guard of the United States or the Air National Guard of the United States may not be relocated or withdrawn under this chapter without the consent of the Governor of the State."
- 26. Plaintiff has not consented to withdrawal or relocation of units of the Illinois

 Air National Guard.
- 27. Plaintiff has informed defendants that he did not consent to withdrawal or relocation of Air National Guard units and stated that:

The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

See Exhibits A, B.

- 28. Pursuant to 32 U.S.C. §104(a) each State may fix the locations of the units and headquarters of its National Guard.
- 29. Pursuant to 32 U.S.C. §104(c) "no change in the branch, organization, or allocation of a unit located entirely within a state may be made without the approval of its Governor."
- 30. The units of the 183rd Fighter Wing are presently located entirely within the State of Illinois.
- 31. Federal law prohibits defendant Rumsfeld from taking action to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois.
- 32. Pursuant to 10 U.S.C. §18235(b)(1) the Secretary of Defense may not permit any use or disposition of a facility for a reserve component of the armed forces that would interfere with the facilities' use for administering and training the reserve components of the armed forces.
- 33. The realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld would interfere with the use of the Abraham Lincoln Capital Airport for the training and administering of reserve components of the armed forces and is barred by 10 U.S.C. §18235(b)(1).
- 34. By virtue of defendant Rumsfeld's proposal to realign the 183rd Fighter Wing without the consent of the Governor of the State of Illinois an actual controversy exists between the parties.
- 35. The members of the Base Closure and Realignment Commission have interests which could be affected by the outcome of this litigation and are made defendants

pursuant to Rule 19(a) of the Federal Rules of Civil Procedure.

- 36. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971).
- 37. Venue is proper in the Central District of Illinois by virtue of the fact that the Abraham Lincoln Capital Airport where the 183rd Fighter Wing is based is in the Central District of Illinois and by virtue of the fact that the official residence of the Governor of the State of Illinois is in the Central District of Illinois.

WHEREFORE, plaintiff prays that this honorable Court grant the following relief:

- A. Enter a declaratory judgment declaring the realignment of the 183rd Fighter Wing as proposed by defendant Rumsfeld without the consent of the Governor of the State of Illinois is prohibited by federal law; and
- B. Granting such other relief as is warranted in the circumstances.

ROD BLAGOJEVICH, Governor of the State of Illinois,

Plaintiff,

LISA MADIGAN, Attorney General, State of Illinois,

Attorney for Plaintiff,

BY: /s/Terence J. Corrigan

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OFFICE OF THE GOVERNOR

Rod R. Blagojevich JRTC, 100 West Randolph, Suite 16-100 Chicago, Illinois 60601

July 11, 2005

The Honorable Donald H. Rumsfeld Secretary of Defense U.S. Department of Defense The Pentagon Room 3E800 Washington D.C. 20301

Dear Secretary Rumsfeld:

According to the recent BRAC recommendations issued by the Department of Defense, the fighter mission of 183rd Fighter Wing at Abraham Lincoln Capitol Airport in Springfield, Illinois would be realigned to another state. If this recommendation is upheld by the Defense Base Closure and Realignment Commission, the 183rd Fighter Wing will no longer have a flying mission.

The Department of Defense did not coordinate this recommendation with either my office or the Illinois Adjutant General. This lack of consultation compromises the integrity of the process used to develop the BRAC recommendations and completely disregards my role as Commander-in-Chief of the Illinois National Guard. Further, pursuant to 10 U.S.C. §18238 and 32 U.S.C. §104(c), my consent is necessary for the actions contemplated by the Department of Defense with regard to the 183rd Fighter Wing.

Chairman Principi recently wrote you expressing his concern about the impact realigning Air National Guard facilities would have on homeland and national security. The Springfield Air National Guard Base is a highly strategic location for homeland security missions for both Illinois and the entire Midwest. Illinois is also home to 11 nuclear power plants that provide 50 percent of our power generation. Further, Illinois has 28 locks and dams on the Illinois, Mississippi and Ohio rivers. If these recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

DEFENDANT'S EXHIBIT By this letter I wish to formally notify you that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the above reference statutory citations, the actions proposed by your Department cannot proceed.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm.Proc. Rule II(I)(1)(f)

recommendations are adopted, these vital assets and many others will be at greater risk without the F-16s in Springfield. On top of all that, this move will cost the taxpayers \$10 million. These are the wrong recommendations, at the wrong time and for the wrong reasons.

By this letter, I wish to formally notify the Commission that I do not consent to the proposed realignment of the 183rd Fighter Wing. Accordingly, pursuant to the statutory citations referenced above, the actions proposed by Secretary Rumsfeld cannot proceed. I expressed similar sentiments to your fellow commissioners on June 20, 2005, at the BRAC Regional Hearings in St. Louis via both oral and written testimony.

Thank you for your time and consideration.

Sincerely,

Signature redacted pursuant to USDC-CDIL Adm. Proc. Rule II(I)(1)(f)